IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION No: 9942 of 2003

Between:

A. Sai Reddy, S/o. Venkat Reddy,

Manager, Malkajgiri Municipality,

Ranga Reddy District.

.... PETITIONER

AND

1. The Government of A.P., rep., by its Secretary,

Housing, Municipal Admn. &

Urban Development Department, Secretariat, Hyderabad.

2. The Director of Municipal Administration,

Andhra Pradesh, Hyderabad.

3. The Chairman, Malkajgiri Municipality,

Malkajgiri, Ranga Reddy District.

4. M. Pratap, S/o. Ram Kistaiah,

Manager, Category-I,

Karimnagar Municipality, Karimnagar.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring that the 2nd respondent has no jurisdiction to issue the impugned proceedings in RC.No.20452/92-K1, dt.11.06.1992 in view of non-publication of Rules in the Gazette and the petitioner's promotion is prior to the issuance of said Rules issued in G.O.Ms.No.292 M.A. dt.16.05.1992 published in A.P. Gazette-Part.I Extraordinary No.186 dt.20.05.1992 and consequently set aside the judgment of the A.P. Administrative Tribunal in O.A.No.3631 of 1992, dt.17.04.2003 holding it as arbitrary, illegal and suffering from errors apparent on the face of record and to pass such other order or orders.

Counsel for the Petitioner: MR.P.SURESH REDDY

Counsel for the Respondents: GP FOR SERVICES-I.

The Court made the following:

ORAL ORDER:- (PER GB,J.)

The Writ Petition is filed assailing the order, dated 17.04.2003, passed by the A.P. Administrative Tribunal, Hyderabad, in O.A.No.3631 of 1992.

2. The petitioner was initially appointed as LDC in Gram Panchayat, Malkajgiri on 28.07.1980. Thereafter, his services were regularized on 01.08.1980. However, the Gram Panchayat was upgraded to Municipality in terms of the A.P. Municipalities Act. After it became Municipality the petitioner was promoted to UDC in November, 1984. He was further promoted to Manager of the Municipality on 16.03.1992. However, a show cause notice, dated 11.06.1992, was issued to the petitioner proposing to revert him to the post of UDC on the ground that he was not promoted in accordance with the Rules framed in G.O.Ms.No.292 dated 16.5.1992 and with the procedure as contemplated in the said G.O. was not followed. The said order came to be challenged by the petitioner in O.A.No.3631 of 1992. Ultimately, the O.A. came to be dismissed by the Tribunal on 17.04.2003. Aggrieved by the said order, the present Writ Petition has been filed by the petitioner. The petitioner also made a representation to the Government to consider his case to ratify the action of the

Municipality in promoting him to Manager on 16.03.1992. Since no action was taken, he filed O.A.951 of 2004 which was disposed of with the directions to consider the representation and pass appropriate orders while the Writ Petition is pending before this Court. In pursuance of the orders passed by the Tribunal, the Government considered the matter and issued Memo dated 5.10.2004 approving the resolution dated 16.3.1992 promoting the petitioner to Manager.

3. In view of this, we find that no further orders are necessary. Accordingly, the Writ Petition has become infructuous since the relief as claimed by the petitioner was granted by the Government.

4. The learned counsel for the petitioner makes another submission that even, otherwise, the promotion is in order as the Rules issued in G.O.Ms.No.292 dated 16.5.1992 published in A.P. Gazette dated 20.05.1992 and they came into force only on 20.05.1992. Whereas, the promotion was effected on 16.3.1992 much prior to the Rules came into force. Therefore, the promotion cannot be said to be covered by G.O.Ms.No.292 dated 16.05.1992 and hence, the very show-cause notice issued on the premise that it is in violation of G.O.Ms.No.292 is not sustainable, but in view of the fact that the Government have already approved the promotion in the Memo dated 05.10.2004 basing on similar orders passed in respect of similarly situated persons in other Municipalities, we are not inclined to consider the second submission.

5. Under those circumstances, the Writ Petition is closed, as infructuous.

6. The learned counsel further submits that the Government is proposing to review the order, dated 05.10.2004, but this argument cannot be entertained in this Writ Petition more especially in the wake of the order already passed by the Government in Memo dated 05.10.2004.

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G. BIKSHAPATHY,J.

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P.S. NARAYANA,J.

Date: 08.02.2005

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To

1. The Secretary, Government of A.P.,

Housing, Municipal Admn. &

Urban Development Department, Secretariat,

Hyderabad.

2. The Director of Municipal Administration,

Andhra Pradesh, Hyderabad.

3. The Chairman,

Malkajgiri Municipality,

Malkajgiri, Ranga Reddy District.

5. The Registrar, A.P. Administrative Tribunal, Hyderabad.

4. 2 CCs to the G.P. for Services-I, High Court of A.P., Hyderabad (OUT).

5. 2 CD copies